



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
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**WRITTEN DETERMINATION APPOINTING
CAREY, SCOTT, DOUGLAS & KESSLER, PLLC AS
OUTSIDE COUNSEL ON BEHALF OF THE GOVERNOR OF WEST VIRGINIA**

The Governor of West Virginia (hereinafter "Governor") is seeking the assistance of outside counsel to assist with currently pending litigation. More specifically, the Governor is seeking legal assistance to defend litigation styled: *G. Issac Sponaugle, III v. James Conley Justice, II*, Case No. 18-0810, currently pending in the Supreme Court of Appeals of West Virginia.

After submitting a proposal in response to Request For Proposals # 71 the law firm of Carey, Scott, Douglas & Kessler, PLLC was selected by the Governor and appointed by Written Determination dated July 10, 2018, to represent the Governor with respect to litigation styled: *G. Issac Sponaugle, III v. James Conley Justice, II*, Civil Action No. 18-P-217, then pending in the Circuit Court of Kanawha County. That civil action was subsequently dismissed by the Circuit Court of Kanawha County and the current proceeding was initiated in the Supreme Court of Appeals. As a result, the Governor's legal interests are now, once again, at issue in this new proceeding. Due to the nature of the Supreme Court of Appeals proceeding, the similarity of the parties and legal interests, Carey, Scott's familiarity with the same, the Governor's continued confidence in Carey, Scott's ability to represent his interests, and in the interests of efficiency and expeditiousness, the law firm of Carey, Scott's appointment to represent the Governor is hereby extended and expanded to include representation of the Governor in *G. Issac Sponaugle, III v. James Conley Justice, II*, Case No. 18-0810, currently pending in the Supreme Court of Appeals of West Virginia.

Based on the factors set forth above, as evaluated by the Governor, the Office of the Attorney General authorizes the appointment of Carey, Scott, Douglas & Kessler, PLLC to serve as outside counsel for the legal matter cited herein pursuant to Section (E) of Policy # WVAGO-004.

A handwritten signature in black ink, appearing to read "Steven A. Travis".

Steven A. Travis
Deputy General Counsel

Date Signed: September 21, 2018

CAREY, SCOTT, DOUGLAS & KESSLER, PLLC
 901 Chase Tower
 707 Virginia Street, East
 P. O. Box 913
 Charleston, WV 25323

State of WV-Office of the Attorney General
 State Capitol Bldg. 1, Rm. E-26
 1900 Kanawha Blvd. East
 Charleston WV 25305

Attn: Brian Abraham

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C. Isaac Sponaugle, III v. James Conley Justice, II
 Civil Action No. 18-P-217

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Account No: 1647-001M
 Statement No: 11584

I HEREBY CERTIFY THAT THE
 ITEMS LISTED HEREON HAVE
 BEEN RECEIVED AND APPROVED
 FOR PAYMENT

10/18/18
 Date Name
 Brian Abraham

Fees

Hours

Date	Activity	Hours	Rate	Total	Notes
06/27/2018	LA Calendar Mr. Carey's meeting with Governor Justice; check online articles regarding mandamus petition by Mr. Sponaugle; print and save petition, memo and discovery; phone call to clerk for number and assignment.	0.80	n/c		
07/10/2018	DRP Telephone call with Mr. Carey.	0.10	27.50	2.75	✓
	DRP Draft motion to dismiss.	0.50	137.50	68.75	✓
	MWC Telephone conference with Mr. Pogue.	0.10	35.00	3.50	✓
	MWC Review draft motion to dismiss.	0.20	70.00	14.00	✓
07/11/2018	DRP Work on motion to stay discovery.	1.00	275.00	275.00	✓
	MWC Review draft motion to stay.	0.10	35.00	3.50	✓
07/12/2018	LA Finalize motion to dismiss, Clerk letter and certificate of service; mail same to Clerk; email and mail to all counsel.	1.00	100.00	100.00	✓
07/16/2018	LA Calendar Mr. Carey's meeting with Governor Justice.	0.10	n/c		
	MWC Meeting with Governor Justice and Brian Abraham.	2.00	700.00	1400.00	✓
07/23/2018	DRP Work on motion to stay discovery.	0.40	110.00	44.00	✓
	LA Finalize motion to stay discovery; draft certificate of service and Clerk letter and file; copy Judge King and counsel.	0.30	30.00	9.00	✓
	MWC Review draft motion to stay.	0.10	35.00	3.50	✓

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			Hours		
07/30/2018	DRP	Review response to motion to stay discovery.	0.20	55.00	✓
	DRP	Review response to motion to dismiss.	0.50	137.50	✓
	MWC	Review response to motion to dismiss.	0.20	70.00	✓
07/31/2018	DRP	Work on reply to response to motion to dismiss.	4.20	1,155.00	✓
	DRP	Research regarding concurrent jurisdiction for mandamus actions; research regarding conflicts between statute and court rules.	2.20	605.00	✓
	LA	Conference with Mr. Pogue; email all documents filed in <i>Sponaugle v. Justice</i> to Brian Abraham and Steven Travis with Office of the Attorney General.	0.20	n/c	
08/01/2018	DRP	Draft reply to response to motion to stay discovery.	2.00	550.00	✓
	MWC	Review draft of reply to response to motion to stay discovery.	0.20	70.00	✓
08/06/2018	DRP	Review and edit reply to response to motion to dismiss and reply to response to motion to stay discovery.	0.20	55.00	✓
	LA	Proof and finalize reply to response to motion to dismiss and reply to response to motion to stay discovery; draft certificates of service and Clerk letters and file; copy to Judge King and counsel; emails sent to Mr. Sponaugle, Mr. Abraham and Mr. Travis.	0.50	n/c	
08/07/2018	MWC	Review letter from Isaac Sponaugle; telephone conference with Mr. Sponaugle.	0.20	70.00	✓
08/13/2018	MWC	Review correspondence from Mr. Sponaugle; conference with Mr. Pogue.	0.20	70.00	✓
08/14/2018	MWC	Review notice of intent to sue.	0.10	35.00	✓
08/16/2018	DRP	Telephone calls with Judge King's office.	0.20	55.00	✓
	LA	Conference with Mr. Pogue regarding hearing on motions and petitioner's motion to compel; email to Mr. Sponaugle for copy of motion.	0.20	n/c	
	LA	Draft notice of hearing, certificate of service and Clerk letter regarding notice of hearing; mail and email to petitioner; calendar hearing and deadline to respond to petitioner's motion to compel.	0.40	n/c	
08/17/2018	DRP	Draft response to motion to compel.	0.50	137.50	✓
	MWC	Attention to providing notice to West Virginia Legislature of Mr. Sponaugle's intent to sue.	0.10	35.00	✓
	LA	Locate mailing information for Mr. Armstead and Mr. Carmichael; prepare letters with Mr. Pogue's content and			

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		send with Mr. Sponaugle's notice of intent to sue.	Hours 0.30	n/c	
08/20/2018	MWC	Review motion to compel; conference with Mr. Pogue regarding same.	0.20	70.00	✓
08/22/2018	DRP	Research regarding mandamus for continuous course of conduct.	1.00	275.00	✓
	LA	Conference with Mr. Pogue; finalize response to motion to compel; draft certificate of service and Clerk letter; file same; copy same to Judge King and counsel.	0.40	n/c	
08/24/2018	LA	Print and organize various pleadings for hearing on motion to dismiss and motion to compel; send same to Mr. Carey.	0.30	n/c	
08/26/2018	DRP	Prepare for hearing on motion to dismiss, motion to stay discovery, and motion to compel.	1.00	275.00	✓
08/27/2018	DRP	Prepare for hearing on motion to dismiss, motion to stay discovery, and motion to compel.	1.50	412.50	✓
	DRP	Hearing on motion to dismiss.	0.80	220.00	✓
	DRP	Work on proposed order.	1.70	467.50	✓
	MWC	Attend hearing on motion to dismiss.	0.80	280.00	✓
08/28/2018	DRP	Work on proposed order.	2.20	605.00	✓
08/29/2018	LA	Calendar deadline to submit proposed order for September 10, 2018; email to Mr. Pogue.	0.10	n/c	
08/30/2018	LA	Telephone call to Judge King's office regarding transcript from hearing on August 27, 2018; email to Mr. Pogue.	0.40	n/c	
		For Current Services Rendered	26.00	7,260.00	
		Total Non-billable Hours	28.80		

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>
Michael W. Carey	4.50
David R. Pogue	20.20
Paralegal	1.30

Expenses

07/31/2018	Postage - 6 items	n/c
08/31/2018	Legal Research Services - Westlaw	n/c
08/31/2018	Postage - 11 items.	n/c

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Advances

08/27/2018	Chelsea Sivori, Official Court Reporter - Transcript of Hearing held on August 27, 2018 (2018-P-217)	100.10
	Total Advances	100.10 ✓
	Total Current Work	7,360.10
	Balance Due	<u>\$7,360.10</u>